

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	CASE NO. 8:05CR107
)	
Plaintiff,)	
)	
vs.)	
)	TENTATIVE FINDINGS
JESUS ROMERO-BERNAL,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR") in this case. The parties have not objected to the PSR. See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 28.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The plea agreement reached pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) states that the parties agree that the total offense level is 19 and the criminal history category is III. However, the PSR reports a total offense level of 21 and a criminal history category of III. The disparity will be discussed at sentencing.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the PSR is correct in all respects;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 5th day of October, 2005.

BY THE COURT:

S/ Laurie Smith Camp
United States District Judge